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EXAMINER

DEMICCO, MATTHEW R

ART UNIT PAPER NUMBER

2611

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/518,041

Applicant(s)

JERDING ET AL.

Examiner

Matthew R Demicco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 49-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 49-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is responsive to an amendment filed 6/18/2004. Claims 1-21 and 49-67 are pending. Claims 49-67 are new. Claims 22-48 are cancelled.

Response to Arguments

2. Applicant's arguments filed with respect to Claims 1-21 have been fully considered but they are not persuasive. In general, the arguments are the same as were presented in the last amendment, filed 12/02/03. Applicant has not addressed the remarks made by the Examiner in the non-final office action dated 2/11/04. These remarks are included below.

3. Regarding Applicant's argument that the McFedries and LaJoie are inadequate and may not properly be combined, the Examiner points out that both the Windows Explorer of McFedries and the EPG of LaJoie are graphical user interfaces operable to run on computer-based systems. Both interfaces are designed for the display and management of information. Both enable the user to customize and view information in a way that makes the handling and manipulation of the information fastest and easiest for different given individuals. The nature of the information being manipulated does not necessarily preclude the fact that certain aspects of each GUI may be functionally useful when combined together. Because both systems in essence are graphical user interfaces, combination of features based on obviousness is deemed proper.

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4. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

5. In response to applicant's argument that there is no suggestion to combine the references and there is lack of suggested desirability of modification in the cited references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, McFedries teaches a graphical user interface that allows a user to select an initial content arrangement. As stated above, the graphical user interface is merely a tool for displaying and managing information. Similarly, the graphical user interface of LaJoie displays and manages information and provides various content arrangements selectable by the user. Since both inventions are fundamentally the same as demonstrated above, combination is proper. The simple fact that allowing a user to select a default initial layout saves the user from having to

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spend time configuring their GUI to their favorite display mode each time they turn it on or enter the EPG is sufficient motivation to combine the aforementioned teachings.

6. In response to applicant's argument that the teachings of McFedries and LaJoie are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both inventions teach computer-based graphical user interfaces as discussed above.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-18, 50-51 and 64-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,850,218 to LaJoie et al. as cited by the Applicant in view of "The Complete Idiot's Guide to Windows 95, 2nd ed." By McFedries.

Regarding Claim 1, LaJoie discloses a television set-top terminal (Col. 9, Line 43) for enabling a user to navigate to an individual television service, the set-top box coupled to a programmable television services server device ("headend", Col. 9, Line 41). The

set-top box has a memory for storing data (See Figure 3, "NVRAM, DRAM") and an interactive program guide contained in the memory for displaying program information received by the client device from the server (See Figure 20). LaJoie further discloses configuration information contained in the memory (Col. 13, Lines 39-44) that includes a plurality of initial guide arrangements. In each guide mode in the system of LaJoie, there is a default theme (Cols. 26-27, Lines 64-2) that is used until the user selects another from the list with a selection indicator that denotes the particular selected arrangement (See Figure 20). Further, the system of LaJoie has a processor (See Figure 3, "CPU") configured to cause the client device to display the program information according to the selected guide arrangement, wherein the processor is responsive to the interactive program guide, the configuration information, and the user input. What is not disclosed, however, is that the configuration information comprises a selection indication that denotes one of the guide arrangements as a selected initial guide arrangement. McFedries discloses an interactive graphical user interface wherein a user may select a content arrangement (Page 49, Figure 1). In the system of McFedries, a user may select a layout option that is saved and used as an initial arrangement the next time a given folder is viewed as is well known in the art. McFedries is evidence that ordinary workers in the art would recognize the benefits of storing in memory an initial arrangement in a graphical user interface. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of LaJoie with the selected initial guide arrangement configuration of McFedries in order to save the user from

having to spend time configuring their GUI to their favorite display mode each time they turn it on or enter the EPG.

Regarding Claim 2, LaJoie in view of McFedries disclose a set-top terminal as stated above in Claim 1. LaJoie further discloses a device wherein the selected initial guide arrangement is configured in a time format including a centered and highlighted lowest channels of a plurality of channels in a channel portion of the selected initial guide arrangement and a listing by time of future programs in a main program display portion of the guide arrangement corresponding to the plurality of channels shown in the channel portion of the selected initial guide arrangement (See Figure 16). LaJoie demonstrates a guide arrangement configured in a time format (Figure 16, Element 386) where the lowest channel of a plurality of channels ("Channel 2") is highlighted and centered. The listing shows future programming as well as current programming.

Regarding Claim 3, LaJoie in view of McFedries disclose a set-top terminal as stated above in Claim 2. LaJoie further discloses a device wherein the processor is further responsive to a subsequent user input to display a guide arrangement in a current time format (See Figure 21) including a highlighted program on the current viewing channel ("Channel 2") of a plurality of channels in the channel portion of the guide arrangement and a listing by time of current and future programs in the main program display portion of the guide arrangement (Element 432) corresponding to the plurality of channels in the channel portion of the guide arrangement.

Regarding Claim 4, LaJoie in view of McFedries disclose a device as stated above in Claim 2. LaJoie further discloses a device wherein the processor is further responsive

to a subsequent user input to display a subsequent guide arrangement in a user-configured time format including a highlighted program on a user pre-configured viewing channel of a plurality of channels in the channel portion of the guide arrangement and a listing by time of current and future programs in a main program display portion of the guide arrangement corresponding to the plurality of channels in the channel portion of the guide arrangement. This is accomplished by the user pressing the arrows on the remote control device and causing the guide to scroll up and down channels or back and forth across current and future programs in time-formatted guide arrangement (Col. 24, Lines 56-62).

Regarding Claim 5, LaJoie in view of McFedries disclose a device as stated above in Claim 2. LaJoie further discloses a device wherein the processor is responsive to a subsequent user input to display a guide arrangement with a menu of ordering formats selectable by a user overlaid on the channel portion of the guide arrangement (See Figures 20 and 22).

Regarding Claim 6, LaJoie in view of McFedries disclose a device as stated above in Claim 1. LaJoie further discloses a device wherein the selected initial guide arrangement is configured in a theme format displaying first alphabetical theme (See Figure 20) in a theme portion of the selected initial guide arrangement and a plurality of future programs in a main program display portion of the selected initial guide arrangement corresponding to the first alphabetical theme shown in the theme portion of the selected initial guide arrangement (See Figure 21).

Regarding Claim 7, LaJoie in view of McFedries disclose a device as stated above in Claim 6. LaJoie further discloses a device wherein the processor is further responsive

to a subsequent user input (Col. 24, Lines 56-62) to display a subsequent guide arrangement in a current theme format including a highlighted (Col. 26, Lines 48-60) current viewing program for a current time slot centered in a main program display portion of the guide arrangement and a theme category corresponding to the current viewing program in a theme portion of the guide arrangement (See Figure 21).

Regarding Claim 8, LaJoie in view of McFedries disclose a device as stated above in Claim 6. LaJoie further discloses a device wherein the processor is responsive to a subsequent user input to display a new theme not corresponding to the current viewing program in the theme portion of the guide arrangement (Col. 26, Lines 48-64) and a plurality of future programs in the main program display portion of the guide arrangement corresponding to the new theme (Col. 27, Lines 8-32).

Regarding Claim 9, LaJoie in view of McFedries disclose a device as stated above in Claim 6. LaJoie further discloses a device wherein the processor is further responsive to a subsequent user input to display a subsequent guide arrangement in a user-configure theme format including a user pre-configured theme highlighted in a theme portion of the guide arrangement (Col. 27, Lines 8-32) and programs corresponding to the user pre-configured theme in the main program display portion of the guide arrangement (See Figure 21).

Regarding Claim 10, LaJoie in view of McFedries disclose a device as stated above in Claim 6. LaJoie further discloses a device wherein the processor is further responsive to a subsequent user input to display a subsequent guide arrangement with a

menu of ordering formats selectable by a user overlaid on the theme portion of the guide arrangement (See Figure 21).

Regarding Claim 11, LaJoie in view of McFedries disclose a device as stated above in Claim 1. LaJoie further discloses a device wherein the selected initial guide arrangement is configured in a title format displaying a first alphabetical category in a title portion of the selected initial guide arrangement (See Figure 22) and an alphabetical listing by time of a plurality of programs in a main program display portion of the selected initial guide arrangement corresponding to the alphabetical category (See Figure 22).

Regarding Claim 12, LaJoie in view of McFedries disclose a device as stated above in Claim 11. LaJoie further discloses a device wherein the processor is further responsive to a subsequent user input to display a subsequent guide arrangement in a current title format (Col. 28, Lines 5-26) including a highlighted current viewing program (See Figure 23) for a current time slot centered in the main program display portion of the guide arrangement and a title category in the title portion of the subsequent guide arrangement corresponding to the current viewing program.

Regarding Claim 13, LaJoie in view of McFedries disclose a device as stated above in Claim 11. LaJoie further discloses a device wherein the processor is responsive to a subsequent user input to display a new title category not corresponding to the current viewing program in the title portion of the guide arrangement (Col. 28, Lines 16-39) and an alphabetical listing by time of a plurality of programs in the main program display portion of the guide arrangement corresponding to the new title category (See Figure 22).

Regarding Claim 14, LaJoie in view of McFedries disclose a device as stated above in Claim 11. LaJoie further discloses a device wherein the processor is further responsive to a subsequent user input to display a subsequent guide arrangement in a user-configure title format (Col. 28, Lines 16-38) including a user pre-configured title highlighted in the theme portion of the guide arrangement (See Figure 22) and programs corresponding to the user pre-configured title in the main program display portions of the guide arrangement (See Figure 23).

Regarding Claim 15, LaJoie in view of McFedries disclose a device as stated above in Claim 11. LaJoie further discloses a device wherein the processor is further responsive to a subsequent user input to display a subsequent guide arrangement with a menu of ordering formats selectable by a user overlaid on the title portion of the guide arrangement (See Figure 22).

Regarding Claim 16, LaJoie in view of McFedries disclose a device as stated above in Claim 1. LaJoie further discloses a device wherein the selected initial guide arrangement is configure in a browse-by menu format including a menu of ordering formats selectable by a user (See Figure 16, Elements 360, 362, and 364).

Regarding Claim 17, LaJoie in view of McFedries disclose a device as stated above in Claim 16. LaJoie further discloses a device wherein a default menu format is a browse-by time format including a listing of future programs in a main program display of the selected initial guide arrangement. In the invention of LaJoie, pressing the guide key causes the EPG to enter the browse-by time mode (Col. 25, Lines 63-66 and Figure

18). This reads on the default menu format being a browse-by time format because the user has not specified whether to browse by time, theme or title.

Regarding Claim 18, LaJoie in view of McFedries disclose a device as stated above in Claim 17. LaJoie further discloses a device wherein the processor is further responsive to a subsequent user input (Col. 24, Lines 52-62) to display a guide arrangement in a current time format selectable from the browse-by menu, the current time format including a highlighted current viewing channel of a plurality of channels in the channel portion of the subsequent guide arrangement (See Figure 16) and a listing by time of current and future programs in a main program display portion of the guide arrangement corresponding to the plurality of channels in the channel portion of the guide arrangement.

Regarding Claim 50 and 51, LaJoie discloses a system as stated below in Claim 49. What is not disclosed, however, is that the initial television program guide presentation has the first or second type of configuration. McFedries discloses a system as stated above wherein the user is operable to select a default initial display configuration. McFedries is evidence that ordinary workers in the art would recognize the benefits of storing in memory an initial arrangement in a graphical user interface.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of LaJoie with the selected initial guide arrangement configuration of McFedries in order to save the user from having to spend time configuring their GUI to their favorite display mode each time they turn it on or

enter the EPG. This reads on the claimed initial EPG presentation has the first or second type of configuration.

Regarding Claim 64, LaJoie discloses a system as stated below in Claim 49. What is not disclosed, however, is that at least one of the plurality of configurations for structured visual presentation corresponding to the initial television program guide presentation is selected responsive to user input provided to the STT. McFedries discloses a system as stated above wherein the user is operable to select a default initial display configuration. This reads on the claimed user input selecting one of the pluralities of configurations corresponding the initial presentation. McFedries is evidence that ordinary workers in the art would recognize the benefits of storing in memory an initial arrangement in a graphical user interface. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of LaJoie with the selected initial guide arrangement configuration of McFedries in order to save the user from having to spend time configuring their GUI to their favorite display mode each time they turn it on or enter the EPG. This reads on the claimed initial EPG presentation has the first or second type of configuration.

Regarding Claim 65, LaJoie discloses a method implemented by a television STT, wherein a plurality of television program guide configurations are selectable by the user as stated above. Further disclosed is outputting by the STT a list of initial television program guide configurations to a television (See Figure 16, 360, 341, 343) and receiving a first user input corresponding to one of the initial television program guide configurations (Col. 26, Lines 27-47). LaJoie in view of McFedries discloses allowing

the user to select and store in memory an initial guide arrangement as stated above. This reads on the claimed storing by the STT information corresponding to one of the initial television program guide configurations responsive to receiving the user input. Further disclosed is accessing the EPG while the user is watching a program such that the program is displayed in a window (Col. 23, Lines 44-51) of the EPG. This reads on the claimed receiving a second user input while the STT is outputting a first television program and accessing the information corresponding to the initial EPG configuration responsive to the second input. LaJoie in view of McFedries teach a STT providing a first television program guide screen (See Figure 16) configured according to the initial configuration as stated above, responsive to the user input, the screen including a plurality of television program titles (366) corresponding to respective television programs. Further, the plurality of television program titles includes a first television program title corresponding to the first program (Col. 26, Lines 64-67). The user is then operable to select a program (Col. 24, Lines 52-62) for viewing (Col. 27, Lines 51-63). This reads on the claimed receiving by the STT a third user input corresponding to a second television program title identified by the plurality of television program titles and outputting by the STT to the television a second television program corresponding to the second title responsive to receiving the third user input.

Regarding Claim 66, LaJoie in view of McFedries discloses a method as stated above in Claim 65. LaJoie further discloses a method wherein the first television program guide screen includes rows and columns of television program titles (See figure 16).

Regarding Claim 67, LaJoie in view of McFedries discloses a method as stated above in Claim 65. LaJoie further discloses that the first television program title is highlight in the first television program guide screen (Col. 26, Lines 64-67).

9. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie et al. in view of McFedries and further in view of U.S. Patent No. 5,808,608 to Young et al.

Regarding Claim 19, LaJoie in view of McFedries disclose a device as stated above in Claim 16. What is not disclosed, however, is a device wherein the default menu format is a browse-by theme format including a listing of future programs in a main program display of the selected initial guide arrangement. Young discloses a electronic program guide as shown in Figure 3 with the ability to sort based on categories and themes as shown in Figure 14. Young further discloses that the default program guide mode may be based on the theme criteria active when the guide was last exited (Col. 24, Lines 6-13). This reads on a default browse-by theme menu format including a listing of future programs in a main program display of the initial guide arrangement. Young is evidence that ordinary workers in the art would appreciate the ability to set a default mode based on a last-used mode of operation in an electronic program guide. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of LaJoie in view of McFedries with the default browse-by theme mode of Young in order to allow a user to return directly to a prior theme search.

Regarding Claim 20, LaJoie in view of McFedries and further in view of Young disclose a system as stated above in Claim 19. LaJoie further discloses a system wherein the processor is further responsive to a subsequent user input (Col. 24, Lines 56-62) to display a subsequent guide arrangement in a current theme format selectable from the browse-by menu, the current theme format including a current viewing program for a current time slot highlighted (Col. 26, Lines 48-60) in a main program display portion of the guide arrangement and a theme category corresponding to the current viewing program in a theme portion of the guide arrangement (See Figure 21).

Regarding Claim 21, LaJoie in view of McFedries and further in view of Young disclose a system as stated above in Claim 20. LaJoie further discloses a device wherein the processor is responsive to a subsequent user input to display a new theme not corresponding to the current viewing program in the theme portion of the guide arrangement (Col. 26, Lines 48-64) and a plurality of future programs in the main program display portion of the guide arrangement corresponding to the new theme (Col. 27, Lines 8-32).

10. Claims 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie et al.

Regarding Claim 53, LaJoie discloses a system as stated below in Claim 49, wherein the second type of configuration (See Figure 22) includes information corresponding to a television program having a future start time (450). What is not disclosed, however, is that the future start time is within a predetermined range of a current time. Official Notice is hereby taken that it is well known in the art that an EPG

may receive program data for a certain number of hours/days/weeks in the future.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of LaJoie with the limited data range of the well-known prior art in order to reduce cost of storage space in each STT. This reads on the claimed programs having a future start time within a predetermined range from a current time.

Regarding Claim 54, LaJoie discloses a system as stated below in Claim 49. LaJoie further discloses that the television program guide presentation includes a highlighted television program title (See Figure 16 and Col. 26, Lines 64-67). This is applicable to each mode (See Figures 16, 20 and 22) of the receiver, which includes the initial mode, and therefore the highlight corresponds to the mode the EPG is operating in. This reads on the claimed correspondence to a predetermined value of the first or second parameter (mode selection). What is not disclosed, however, is that the future start time is within a predetermined range of a current time. Official Notice is hereby taken that it is well known in the art that an EPG may receive program data for only a certain number of hours/days/weeks in the future. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of

LaJoie with the limited data range of the well-known prior art in order to reduce cost of storage space in each STT. This reads on the claimed programs having a future start time within a predetermined range from a current time.

Regarding Claim 55, LaJoie discloses a system as stated above in Claim 54. Further disclosed is that the television signal includes additional television program

information corresponding to the highlighted television program title (See Figure 16, 378).

11. Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie et al. in view of U.S. Patent No. 6,757,909 to Maruo et al.

Regarding Claim 57, LaJoie discloses a system as stated below in Claim 49, wherein the processor is configured to enable to STT to receive program guide data via the tuner as stated below. What is not disclosed, however, is that the STT is configured to update at least a portion of the first section of the memory responsive to the STT receiving a message from the remote server. Maruo discloses an A/V broadcast system to a set-top box (Col. 6, Lines 3-20) wherein EPG data is updated via in-band transmission from an EPG server (Col. 6, Lines 20-34). Maruo is evidence that ordinary workers in the art would appreciate the ability to update EPG data by transmitting a message from a server to a STT. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of LaJoie with the EPG update of Maruo in order to keep a user's EPG data current.

12. Claim 58-59 is rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie et al. in view of U.S. Patent No. 6,681,395 to Nishi.

Regarding Claim 58, LaJoie discloses a system as stated below in Claim 49. What is not disclosed, however, is that the processor is further configured to enable the STT to receive the plurality of configurations for structured visual presentations from the remote

server via the tuner and to store the plurality of configurations in the second section of the memory. Nishi discloses a program guide display system (See Abstract) wherein EPG data comprises a variety of structured templates (Col. 4, Lines 1-10), which are transported from the broadcasting station to a subscriber terminal (Col. 4, Lines 12-16) and stored (Col. 4, Lines 38-40). This reads on the claimed receiving a plurality of configurations for structured visual presentation from the remote server via the tuner and storing them in memory. Nishi is evidence that ordinary workers in the art would appreciate the ability to use stored templates downloaded from a server to generate an EPG. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of LaJoie with the templates of Nishi in order to allow greater flexibility in defining, managing and updating EPG displays.

Regarding Claim 59, LaJoie in view of Nishi discloses a system as stated above in Claim 58. LaJoie further discloses that the received EPG data corresponds to programs, times and categories (See Figure 16). A user is operable to select a mode parameter (Col. 26, Lines 27-59) to sort the available data. This reads on the claimed values of the first and second parameters (user's mode selection) being determined responsive to data received (program to be sorted) from the remote server.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 49, 52, 56 and 60-63 are rejected under 35 U.S.C. 102(b) as being anticipated by LaJoie et al.

Regarding Claim 49, LaJoie discloses a television set-top terminal for enabling a user to navigate to a television server as stated above, the STT being communicatively coupled to a remote server (See Figure 1) and comprising a tuner (See Figure 2, 41) configured to receive program guide data and television programs (Col. 9, Lines 43-48 and Col. 10, Lines 8-41). Further disclosed is at least one processor (30). It is inherent that such a processor runs software in order for the device to function. This reads on the claimed processor being responsive to instructions contained in respective software applications. Further disclosed are memories (32) configured to store program guide data (Col. 13, Lines 36-50) and software applications (Col. 13, Lines 57-65). The NVRAM memory for storing EPG data reads on the claimed first section of memory configured to store program guide data received via the tuner. The program guide data includes television program information corresponding to respective television channels and to respective television programs including a first and second plurality of television programs (See Figure 16). As illustrated, current programs and future programs are displayed. This reads on the claimed first plurality of television programs being scheduled to start at a plurality of respective future times and a second plurality of programs being currently accessible by an STT user via the STT. Further disclosed are a plurality of display modes such as time mode, theme mode and program name mode as stated above. The storage of required to create these different mode displays reads on the

claimed second memory configured to store a plurality of configurations for structured visual presentations of the program guide data, the configurations including a first type and a second type of configuration (See Figures 16 and 22). Further disclosed is ROM memory containing the operating system as stated above. This reads on the claimed third section of memory configured to store the software applications including a television program guide application (See Figure 16). As stated above, different display modes are selectable by the user. This reads on the claimed type of configuration including television program information sorted in a first direction (See Figure 16) according to corresponding values of a first parameter such as channel number, for displaying television program information. Figure 22 demonstrates a second type of configuration that includes television program information sorted in the first direction according to corresponding values of a second parameter, such as name, for displaying television program information and in a second direction according to corresponding values of a time parameter, wherein the second parameter (name) is different from the first parameter (channel number). As is well understood in the art, a user may enter the program guide while watching a program. The program guide will then be displayed, along with an indicator of the channel the user was tuned to and a program-viewing window (Col. 23, Lines 44-55). It is inherent that when instantiated, the guide enter one of the modes that it is capable of operating in. This reads on the claimed at least one of the plurality of configurations for structured visual presentations corresponds to an initial television program guide presentation that is output by the STT responsive to user input received by the STT while the STT is outputting a television program to a television wherein the at

least one of the plurality of configurations corresponds to one of the first and second type of configuration. The television program guide application is configured to enable the STT to output portions of program guide data within a plurality of configurations for structured visual presentation as stated above. It is inherent that in order to display the program guide in response to a user's request, the STT must retrieve the configuration and program guide data and construct the guide for output to the television. This reads on the claimed STT retrieving the at least one of the plurality of configurations corresponding to the initial television program guide presentation from the second section of memory, retrieving portions of the program guide data from the first section of memory corresponding to predetermined values of the first or second parameter, constructing the program guide presentation using at least one of the configurations and program guide data and outputting a television signal that includes the initial television program guide presentation including the retrieved portions of program guide data in response to a user input received by the STT while the STT is outputting a television program as stated above.

Regarding Claim 52, LaJoie discloses a system as stated above in Claim 49, wherein the television signal that includes the initial television program guide presentation also includes a portion of the television program being output by the STT when the user input is received (See Figure 16, 340 and Col. 23, Lines 44-55).

Regarding Claim 56, LaJoie discloses a system as stated above in Claim 49, wherein the television signal includes at least one icon depicting a user input key on an input device (See Figure 16, 360, 362, 364) configured to provide user input to the STT

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(Col. 15, Lines 1-3). The user is operable to press a corresponding button on the remote to cause the EPG to shift modes (Col. 26, Lines 27-49). This reads on the claimed STT being responsive to a user input provided by the user input key, wherein the television signal is configured to include a modified structured visual presentation that is different that the initial television program guide presentation.

Regarding Claim 60, LaJoie discloses a system as stated above in Claim 49, wherein the value of the first and second parameter is determined responsive to user input received by the STT (Col. 26, Lines 27-47).

Regarding Claim 61, LaJoie discloses a system as stated above in Claim 49, wherein the second parameter corresponds to television channel numbers (See Figure 16). This corresponds to the "Time" presentation mode where each channel is listed sequentially.

Regarding Claim 62, LaJoie discloses a system as stated above in Claim 49, wherein the first parameter corresponds to a theme of television program identified in a corresponding television program guide (See Figure 20).

Regarding Claim 63, LaJoie discloses a system as stated above in Claim 49, wherein the first parameter corresponds to alphanumeric characters (See Figure 22).

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew R Demicco whose telephone number is (703) 305-8155. The examiner can normally be reached on Mon-Fri, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



mrd

October 15, 2004


CHRIS GRANT
PRIMARY EXAMINER